IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.1178 OF 1984

The Karnataka Bank Ltd. ..Plaintiffs

Vs.

Mohamed Yunus Fakir Mohamed
& Anr. ..Defendants

Ms.Damini Chandran i/b Umesh Shetty and Co. for the plaintiffs

None for the defendants

CORAM : S.U.KAMDAR, J
DATED : 3RD MARCH, 2006

P.C.:

1. The present suit is filed by the bank for the recovery of sum of Rs.1,40,688.58 with further interest thereon @ 20% p.a. The suit claim arises out of loan lent and advanced by the bank by way of Vehicle Hypothecation Loan. Originally the loan was advanced for Rs.1.0 lac.

2. The plaintiffs have committed defaults in payment and inspite of demand notice no payment was received. Defendants have filed written statement.

Issues were framed. Written statement contains nothing but mere denials. Nobody appeared for the defendants on the last occasion. Accordingly, I directed the plaintiffs to give notice to the advocate for the defendants which was given on 26.2.06 and which has been received by the advocate for the defendants. Inspite of notice, none appears for the defendants. In that light of the matter, matters has been proceeded for ex-parte decree. Plaintiffs has filed compilation of documents. The same are taken on record and marked Ex.A collectively.

3. In the light of the aforesaid fact, there shall be decree against defendant no.1 in terms of prayer clause (a) , (b), (c) and (d) with modification that the interest from the date of the suit till payment and/or realisation will be 12% p.a.. Suit as against defendant no.2 is already dismissed.

4. The possession of the hypothecated vehicle is with the Receiver. By order dt.30.11.85, Court Receiver was directed to appoint defendant no.1 as

agent. In view of passing of decree, Receiver is appointed in execution and directed to take possession of the said hypothecated vehicle, sale the same and recover the sale proceeds and pay over to the plaintiff in satisfaction of the decreetal claim.

5. Receiver is also directed to permit the plaintiffs to withdraw the royalty amount deposited by the defendant no.1 towards the satisfaction of decreetal claim.

6. Suit disposed of accordingly. Refund of court fee as per rules.